

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION**

**JACQUETTA L. CLAYTON**

**VS.**

**AMAZON**

§  
§  
§  
§  
§

**ACTION NO. 4:22-CV-984-P**

**ORDER DENYING PLAINTIFF’S MOTION FOR THE APPOINTMENT OF COUNSEL**

Pending before the Court is Plaintiff Jacquetta L. Clayton’s Motion for the Appointment of Counsel [doc. 33], filed September 4, 2023. In Clayton’s Amended Complaint, she alleges violations pursuant to, *inter alia*: (1) Title VII of the Civil Rights Act of 1964, as amended (“Title VII”); (2) the Age Discrimination in Employment Act, as amended (“ADEA”);<sup>1</sup> and (3) the Americans with Disabilities Act of 1990, as amended (“ADA”). In determining whether appointment of counsel pursuant to Title VII, 42 U.S.C. § 2000e-5(f)(1), is appropriate, a court should consider: (1) the merits of the plaintiff’s claim; (2) the efforts taken by the plaintiff to obtain counsel; and (3) the plaintiff’s financial ability to retain counsel.<sup>2</sup> *See Gonzalez v. Carlin*, 907 F.2d 573, 580 (5th Cir. 1990). A plaintiff is not automatically entitled to the appointment of counsel. *See Gonzalez*, 907 F.2d at 579. Moreover, Plaintiff has the “burden of persuasion with regard to the application for appointment of counsel.” *Tatum v. Cmty. Bank*, 866 F. Supp. 988, 995 (E.D. Tex. 1994). In addition, as there are no federal funds allocated to the prosecution or defense of civil suits, the court must also consider the unfairness of imposing involuntary servitude

---

<sup>1</sup>“Unlike Title VII cases, courts do not ‘appoint’ counsel in ADEA cases.” *See Lampkin v. Tex. Dep’t of Public Safety*, No. A-12-CV-876-SS, 2013 WL 264541, at \*5 n.6 (W.D. Tex. Jan. 22, 2013).

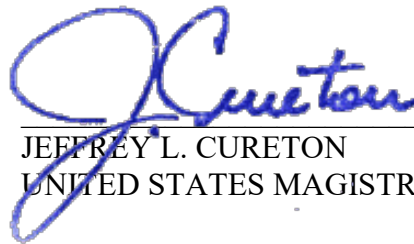
<sup>2</sup>The ADA states that the provisions of 42 U.S.C. § 2000e-5 apply to claims for disability discrimination brought under the ADA. *Lampkin*, 2013 WL 264541, at \*5 n.6; *see* 42 U.S.C. § 12117(a).

upon a member of the Bar when the likelihood of success upon the claims appears slight. *See Tatum*, 866 F. Supp. at 995.

After careful consideration of the above factors, the Court concludes that Plaintiff's motion should be **DENIED**. Based on Plaintiff's motion, the Court does not doubt Plaintiff's diligent, but unsuccessful, efforts in obtaining an attorney to represent her. In addition, while Plaintiff did pay the filing fee in this case, the Court is not convinced that Plaintiff can afford to pay for an attorney based upon information presented prior to Plaintiff paying the filing fee. Nevertheless, the Court is not persuaded that the merits of Plaintiff's claims weigh in favor of appointment of counsel.

Based on the foregoing, it is ordered that Plaintiff's Motion for the Appointment of Counsel [doc. 33] is **DENIED**.

SIGNED September 28, 2023.



---

JEFFREY L. CURETON  
UNITED STATES MAGISTRATE JUDGE